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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 723,098	11 27 2000	Modasser El-Shoubary	13093	5348

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EXAMINER

YOON, TAE H

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 01 06 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,098

Applicant(s)

E1-Shoubary et al

Examiner

T. Yoon

Group Art Unit

1714

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 12-9-02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 39-67 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 39-67 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The allowability of claims 43, 44, 46-50, 52 and 54 are withdrawn due to new ground of rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-67 are rejected under 35 U.S.C. 103(a) as obvious over DE 1234234 in view of McClain (US 4,287,333) or Stramel (US 5,397,391).

The instant invention further recites polyethylene, copolymers of ethylene, polypropylene, polycarbonates and polystyrene over DE.

However, DE teaches the use of the organo-acid phosphate treated pigment in a paint composition at page 1, line 1 and in examples 5 and 6 of the translated copy. McClain teaches the use of polyethylene in a coating composition at col. 7, line 61 to col. 8, line 16 and in table III, and Stramel teaches the use of the instant polymers in a coating (paint) composition at col. 2, lines 44-51 and at col. 4, lines 52-63 wherein poly(vinylaromatic) resins encompass the instant polystyrene.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to utilize the organo-acid phosphate treated pigment of DE in a coating composition

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comprising the instant polymers of McClain or Stramel since DE teaches the use of the organo-acid phosphate treated pigment in a paint composition and since the use of the instant polymers in a coating (paint) composition is a routine practice as taught by McClain and Stramel.

Note that DE teaches a composition comprising a polymer and an organo-acid phosphate treated pigment in examples 5 and 6. Said examples inherently yield an organo-acid phosphate treated pigment since a reaction of said organo-acid phosphate and pigment is taught at page 2, lines 7-12 of the translation. The treatment of pigment with an organo-acid phosphate before combining with a polymer for paints is taught at page 2, lines 21-22. The instantly recited "comprising" permits the presence of water or solvents.

Claims 39, 40, 43-48, 51 and 56-63 are rejected under 35 U.S.C. 103(a) as obvious over Menovcik et al (US 5,876,493) in view of McClain (US 4,287,333) or Stramel (US 5,397,391).

The instant invention further recites polyethylene, copolymers of ethylene, polypropylene, polycarbonates and polystyrene over Menovcik et al.

However, Menovcik et al teach the use of any polymeric resin for a coating composition at col. 4, lines 33. McClain teaches the use of polyethylene in a coating composition at col. 7, line 61 to col. 8, line 16 and in table III, and Stramel teaches the use of the instant polymers in a coating (paint) composition at col. 2, lines 44-51 and at col. 4, lines 52-63 wherein poly(vinylaromatic) resins encompass the instant polystyrene.

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to utilize the organo-acid phosphate treated pigment of Menovcik et al in a coating composition comprising the instant polymers of McClain or Stramel since Menovcik et al teach the use of any polymeric resin and since the use of the instant polymers in a coating (paint) composition is a routine practice as taught by McClain and Stramel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (703) 308-2389. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

THY/December 30, 2002



TAE H. YOON
PRIMARY EXAMINER